

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA**ORIGINAL FILED**  
OCT 22 2004  
BANKRUPTCY COURT  
OAKLAND, CALIFORNIA

In re Patricia Ann Lehtinen,  
Debtor.

Case No. 03-46972 RN13  
Chapter 13

**FINDINGS OF FACT, OPINION AND CONCLUSIONS OF LAW**

On July 8, 2004, this Court received a letter from the debtor in this case, Patricia Ann Lehtinen, (herein the "Debtor") raising ethical questions as to the conduct of her attorney, Jim G. Price (herein "Price"), in handling her bankruptcy case. Thereafter, the Court issued an order for Price to appear at a hearing on July 26, 2004 (herein the "July 26<sup>th</sup> Hearing") and show cause why he should not be sanctioned and/or suspended or disbarred from practice before this Court for the conduct described in that letter (*Order to Show Cause*, Doc. 19; Court Ex. A, letter dated July 8, 2004, attached). In accordance with Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052,<sup>1</sup> and upon consideration of the testimony, evidence, supplemental documents and pleadings submitted to the Court at and after the July 26<sup>th</sup> Hearing and the record in this case, the Court hereby submits the following findings of fact, opinion and conclusions of law.

**FINDINGS OF FACT**

1. The Debtor suffers from post-traumatic stress disorder, attention deficit hyperactivity disorder, and fibromyalgia. In August of 2003 she was in distress due to the recent death of her

<sup>1</sup> Unless otherwise indicated, all section and rule references are to the Bankruptcy Code, 11 U.S.C. sections 101-1330 and the Federal Rules of Bankruptcy Procedure, Rules 1001-9036.

1 mother and of her son. At that time the Debtor had been unemployed for about 7 years and was  
2 receiving \$754 in monthly disability payments. The Debtor supplemented her income by renting  
3 rooms in her house to tenants. During the preceding two years, several of these tenants failed to pay  
4 rent regularly to the Debtor, and by August, 2003 she had fallen behind on her mortgage payments.

5       2. Price is a member of the State Bar of California and a licensed California real estate  
6 broker. (Court Ex. B, License Information from California Dept. of Real Estate Records, of which  
7 this Court takes judicial notice, attached). Price operates his law practice and real estate brokerage  
8 from the same office, located in Brentwood, California. On or about August 23, 2003, the Debtor  
9 met with Price at his office to discuss saving her house from foreclosure.

10       3. At this meeting the Debtor told Price that her mortgage lender, Washington Mutual,  
11 had recorded a notice of default on her house, but that a trustee's foreclosure sale date had not been  
12 published. Price and the Debtor discussed her getting caught up on the delinquent mortgage  
13 payments. Price told the Debtor he could represent her in filing a bankruptcy case and in listing her  
14 house for sale. At this time, the Debtor did not feel pressured or uncomfortable that Price had  
15 offered his services as both a bankruptcy attorney and a real estate broker. Price did not at any time  
16 disclose to the Debtor the potential conflict of interest of him acting in the dual capacity as her  
17 bankruptcy attorney and real estate broker. Upon the conclusion of this meeting the Debtor, a self-  
18 described procrastinator due to her medical conditions, was undecided as to what to do.

19       4. By the end of October, 2003, the Debtor had decided to file for bankruptcy and again  
20 contacted Price. She also told Price that she wanted to secure a loan so she could fix up her house  
21 and sell it for as much as possible, "if God and the bankruptcy court will give me time to accomplish  
22 this." (Price Ex. 1, fax dated Oct. 28, 2003, attached). On or about November 19, 2003, Price and  
23 the Debtor signed the *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys* (Doc.  
24 10), pursuant to which Price agreed to represent the Debtor in her bankruptcy case, which included  
25 attending the Meeting of Creditors required by §341 of the Bankruptcy Code (herein the "Meeting of  
26 Creditors").

27       5. On December 2, 2003, the Debtor filed a Chapter 13 petition (Doc. 1). A trustee's  
28

foreclosure sale on her house had been noticed for shortly after December 2, 2003. On December 22, 2003, Price and the Debtor completed and filed her bankruptcy schedules, statement of financial affairs and proposed Chapter 13 plan (Docs. 8 and 9). The Debtor's proposed plan called for an estimated 10% payment of allowed unsecured claims. The Debtor was to make a monthly plan payment of \$560 for 60 months to the Chapter 13 Trustee, along with her regular \$1,610 monthly mortgage payment to Washington Mutual.

6. On February 19, 2004, the Debtor attended the Meeting of Creditors, but Price did not. Instead, at the request of Price, attorney Cal Zamanski ("Zamanski") specially appeared to represent the Debtor. Zamanski is not an associate or member of, or otherwise employed by, Price's law firm. Price did not tell the Debtor that he would not appear, or that Zamanski would appear, and Price did not obtain the Debtor's consent for Zamanski to represent her at the Meeting of Creditors.

7. At the Meeting of Creditors, Zamanski informed the Debtor that because of the equity in her house, the Chapter 13 Trustee would only approve a plan that paid 100% of allowed unsecured claims, as well as payment of her delinquent mortgage payments. The Meeting of Creditors was continued to March 18, 2004, and the Debtor was directed to file an amended plan (Docket entry dated 2/23/04).

8. Thereafter, Price sent the Debtor a letter requesting that she sign off on an amended plan providing 100% payment of allowed unsecured claims and for the payment of the delinquent mortgage payments. The Debtor did not understand the new payment amounts and did not sign off on the proposed amended plan.

9. On March 19, 2004, the Chapter 13 Trustee filed and served a *Notice of Confirmation Hearing*. The notice stated that the confirmation hearing was scheduled for June 3, 2004 at 2:00 p.m., but did not indicate that the debtor's attendance was required. According to the certificate of service, the Chapter 13 Trustee mailed a copy of the *Notice of Confirmation Hearing* to the Debtor and Price. (*Notice of Confirmation Hearing*, Doc. 14).

10. In March of 2004, Price contacted Rene Boisvert ("Boisvert") from the Boulevard Equity Group ("Boulevard") to inquire about Boulevard loaning the Debtor funds to fix up her house

1 prior to listing it for sale. (*Boisvert Declaration* at ¶4, attached as Ex. B to Price Ex. 2, *Response to*  
2 *Order to Show Cause*, Doc. 22). Price telephoned Boisvert in response to a mailing received from  
3 Boisvert soliciting business from bankruptcy attorneys. Prior to receiving this telephone call,  
4 Boisvert stated that he did not know and had never spoken to Price. (*Id.* at ¶ 3). At some point after  
5 this telephone call, Boisvert spoke to the Debtor, proposing to loan her the money to fix up her house  
6 and payoff Washington Mutual with Boulevard to be repaid from the proceeds from the sale of the  
7 house. Boisvert conditioned the Debtor receiving the loan on her retaining Price as her real estate  
8 broker. Boisvert declares that he insisted on this condition because, given the Debtor's previous loan  
9 performance problems, he wanted "a professional involved to increase the probability of the plan  
10 being completed." (*Id.* at ¶6).

11       11.     At some point, Price went to view the Debtor's house and valued it at \$340,000 to  
12 \$345,000 for a quick sale. The Debtor thought this price range was too low, and told Price that rental  
13 houses in the neighborhood sold for \$360,000 to \$365,000. The Debtor thought her house should sell  
14 for about \$400,000. No evidence was presented of any additional efforts by Price to determine the  
15 value of the house.

16       12.     In April, 2004, the Debtor became frightened by television commercials about  
17 financially troubled homeowners avoiding eviction and property foreclosure. On April 23, 2004, the  
18 Debtor again met with Price. Concerned that the Debtor's house may have already been sold through  
19 foreclosure, Price called the Chapter 13 Trustee and Washington Mutual and learned that it had not  
20 been sold. From those conversations, Price learned that the Debtor was delinquent post-petition on  
21 her mortgage loan and Chapter 13 plan payments. Price told the Debtor that due to these payment  
22 delinquencies, her case was in jeopardy of being dismissed. Price then told the Debtor that she  
23 needed to file an amended plan or fix the house and sell it, and encouraged her to list the house at  
24 \$340,000 "as is" for a quick sale. The Debtor thought that \$340,000 was too low. Price advised the  
25 Debtor to contact the Chapter 13 Trustee and to get caught up on her missed plan payments.

26       13.     The Debtor soon thereafter telephoned the Chapter 13 Trustee, who told her that she  
27 had until her Confirmation Hearing to do something with the house or her plan, and that she was  
28

1 required to attend the Confirmation Hearing. The Debtor testified that this late April, 2004 telephone  
2 conversation was the first time she learned of the Confirmation Hearing and that she was required to  
3 attend. After speaking with the Chapter 13 Trustee, and upon receipt of an April 27, 2004 letter from  
4 Price (herein the "April 27<sup>th</sup> Letter) recounting their April 23<sup>rd</sup> meeting, (Price Ex. 3, attached), the  
5 Debtor called Price and told him that she wanted to sell the house and that the Trustee said she had  
6 until June to do so. During this conversation, the Debtor did not tell Price that the Chapter 13 Trustee  
7 advised her to appear at the Confirmation Hearing.

8       14. By this time the Debtor had received a loan packet from Boisvert, which again  
9 conditioned the issuance of a loan on her retaining Price as her real estate broker. The Debtor, who  
10 formerly worked in the real estate business, felt she should be able to use a broker of her choice. The  
11 Debtor became uneasy and angry about the loan condition, and thought it was strange. The Debtor  
12 began to wonder if Price and Boisvert were working together to get her house sold quickly to a straw  
13 purchaser for an artificially low price, who would then resell it for a higher price and split the realized  
14 equity with Price and Boisvert. At about this time, the Debtor lost trust in Price. She did not return  
15 the loan package to Boisvert. Later, the Debtor received a second loan package from Boisvert but did  
16 not return that one, either.

17       15. Instead, the Debtor listed the house through a family friend in the real estate business.  
18 Rather than fixing up her house prior to listing it for sale, she testified she just "cleaned it up the best  
19 as I could." About a week and a half afterward, on or about May 20, 2004, the Debtor accepted an  
20 offer on her house, as is, for \$390,000. She did not inform Price that she had listed and accepted an  
21 offer on her house.

22       16. Price testified at the July 26 Hearing that toward the end of May 2004, "he anticipated  
23 he might be hired as a broker," so he contacted the United States Trustee (the "UST") to  
24 hypothetically inquire about serving as a real estate broker in the case while also representing the  
25 debtor as her attorney. The UST told Price his existing representation of a debtor in a bankruptcy  
26 case would be a problem to his appointment as a real estate broker in that case because he would fail  
27 the disinterestedness requirement of 11 U.S.C. §327.

1           17.     On the morning of June 3, 2004, between 10:00 a.m. and 11:00 a.m., another client of  
2 Price, Dave Shepard ("Shepard"), called and asked Price to represent him at a hearing that afternoon  
3 in Alameda County Superior Court. Price agreed, even though he knew the debtor's Confirmation  
4 Hearing was set for 2:00 P.M. Price did not seek a continuance of that Superior Court hearing or the  
5 Debtor's Confirmation Hearing. Price did not otherwise inform this Court prior to the Confirmation  
6 Hearing that he had a conflicting emergency hearing in Superior Court. Price attended the Superior  
7 Court hearing on June 3<sup>rd</sup>, but failed to appear at the Confirmation Hearing that afternoon.

8           18.     The Debtor, however, did appear at the Confirmation Hearing and explained that a sale  
9 of her house was pending in escrow. The Court confirmed the Debtor's plan with a 100% payout to  
10 general unsecured creditors, with escrow to close in 60 days or the case would be dismissed.  
11 (*Confirmation Order*, Doc. 15). The Court also issued an order for Price to appear on July 8, 2004,  
12 (herein the "July 8<sup>th</sup> Hearing"), and show cause why he should not have to disgorge any compensation  
13 received from the Debtor for his failure to appear at the Confirmation Hearing and at the Meeting of  
14 Creditors. (*Order*, Doc. 16).

15           19.     Thereafter, Price did not contact the Court, the Debtor, the Chapter 13 Trustee or  
16 check the Court docket to find out what happened to the Debtor's case at the Confirmation Hearing.  
17 Price assumed the Debtor's case had been dismissed, and made no attempt to set aside the presumed  
18 dismissal. Instead, he immediately sent the Debtor a letter dated June 4, 2004 (herein the "June 4  
19 Letter," Court Ex. 1, attached) misstating that the Court had dismissed her bankruptcy case at the  
20 Confirmation Hearing and that Washington Mutual was therefore "free to proceed with the sale of  
21 your house." The June 4 Letter also stated that a foreclosure sale was scheduled for June 10, 2004,  
22 and that "we can re-file another bankruptcy case or we can put your house on the market and, given  
23 the market, have a contract early next week and negotiate with your lender to postpone the sale to  
24 allow escrow to close." (*Id.*). The Debtor received the June 4 Letter a day or so later.

25           20.     At about this time the Debtor received an unsolicited pamphlet in the mail from an  
26 unidentified attorney in Walnut Creek, California. The pamphlet described various options to avoid  
27 foreclosure, including refinancing an existing mortgage debt with an interest only loan. The Debtor  
28

contacted the Walnut Creek attorney and described her situation. He advised her to contact Price and “ask why he did this,” and to also contact the Court and the Chapter 13 Trustee.

21. A few days after receipt of the June 4 Letter, the Debtor telephoned Price and asked him why he did not tell her in advance about the scheduled Confirmation Hearing, and why in the June 4 Letter he incorrectly stated that her case had been dismissed. Price responded that he was trying to get her to stop procrastinating and do something. During this conversation the Debtor told Price that she attended the Confirmation Hearing and what happened at that hearing. She also told Price, for the first time, that her house was sold pending the close of escrow.

22. At the conclusion of the July 8<sup>th</sup> Hearing, the Court ordered a \$300 reduction in the \$1,500 fee Price charged the Debtor for representing her in this bankruptcy case, due to his failure to appear at the Confirmation Hearing.

23. Later that day, the Court received a letter from the Debtor raising serious ethical issues regarding Price's handling of her bankruptcy case. Thereafter, the Court issued an order for Price to appear on July 26<sup>th</sup> and show cause why he should not be sanctioned and/or suspended or disbarred from practice before this Court for the conduct described in the Debtor's July 8, 2004 letter (Court Ex. A, letter dated July 8, 2004, attached). The Court also ordered the Debtor to appear at that hearing to testify as to the same.

24. On or about July 23, 2004, the sale of the Debtor's house was consummated for a purchase price of \$390,000.

## OPINION

**A. Failure to Disclose and Obtain Debtor's Consent to Representation by a Non-Associated Appearance Attorney at the § 341 Meeting of Creditors**

An attorney not associated or otherwise employed by the attorney or law firm representing a client may make a “special appearance” on behalf of that client, provided that prior to the special appearance the client’s attorney discloses the anticipated use of the “appearance attorney” to the client

1 and obtains the client's consent to such an appearance.<sup>2</sup> *In re Wright*, 290 B.R. 145, 151-153 (Bankr.  
2 C.D. Cal. 2003) (Mund, C.J., with Greenwald, J. and Lax, J. joining in the conclusions of law). Such  
3 disclosure and consent is required if the appearance attorney's "involvement is a significant  
4 development." Whether the use of an appearance attorney constitutes a significant development  
5 depends upon the circumstances of the particular case. Relevant factors to consider include 1)  
6 whether responsibility for overseeing the client's matter is being changed; 2) whether the new  
7 attorney will be performing a significant portion or aspect of the work; or 3) whether staffing of the  
8 matter has been changed from what was specifically represented to or agreed with the client. *In re*  
9 *Wright*, 290 B.R. at 151-152, citing *State Bar of California Formal Ethics Opinion No. 1994-138*,  
10 1994 WL 721969 at \*5 (Cal. St. Bar Comm. Prof. Resp. 1994); *see also*, California Rule of  
11 Professional Conduct 3-500, and California Business & Professions Code §6068(m) (attorney shall  
12 keep client reasonably informed of significant developments related to employment and  
13 representation in matters attorney has agreed to provide legal services).<sup>3</sup>

14 The §341 meeting of creditors is a fundamental and significant event in a bankruptcy  
15 proceeding as it "usually presents the first opportunity for the Trustee, the United States Trustee, and  
16 the creditors to examine the debtor and to determine the accuracy of the debtor's schedules and  
17 prospects of creditors being paid." *Bone v. Judah (In re Josey)*, 195 B.R. 511, 513-514 (Bankr. N.D.  
18 Ga. 1996). The attorney representing a debtor is obligated to appear at the meeting of creditors with  
19 the debtor. *In re Castorena*, 270 B.R. 504, 530 (Bankr. D. Idaho, 2001) (to adequately represent a  
20 bankruptcy debtor, attorney representing debtor must attend the §341 meeting of creditors); *In re*

---

22 2 Other terms to describe an "appearance attorney" include a "contract attorney," a "temporary attorney" and a "stand-in  
23 attorney." *See, In re Wright*, 290 B.R. at 149-150; Berman, *Judge, This is Not My Case - Ethical Pitfalls Concerning*  
*Contract and Appearance Attorneys*, 5 Norton Bankruptcy Law Adviser 3, May 2004.

24 3 California Rule of Professional Conduct 3-500 states: "A member shall keep a client reasonably informed about significant  
25 developments relating to the employment or representation and promptly comply with reasonable requests for information."

26 California Business and Professions Code §6068(m) provides: "It is the duty of an attorney to do all of the following: ... (m)  
27 respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments  
28 in matters with regard to which the attorney has agreed to provide legal services."



1 *Bancroft*, 204 B.R. 548, 550-551 (Bankr. C.D. Ill. 1997) (attorney cannot apply his professional  
2 knowledge and skill without attending the first meeting of creditors, which is among the minimum  
3 services required for attorney to perform); *In re Josey*, 195 B.R. at 514 (“attorneys for debtors cannot  
4 adequately represent their clients if they fail to appear at the §341 meeting”). An attorney’s standard  
5 fee in a Chapter 13 case may be subject to disgorgement as excessive for his failure to perform a  
6 fundamental service such as representation of the debtor at the meeting of creditors. *Hale v. United*  
7 *States Trustee (In re Basham)*, 208 B.R. 926, 932 (9th Cir. BAP 1997), *aff’d* 152 F.3d 924 (9<sup>th</sup> Cir.  
8 1998) (standard fee paid to attorney disgorged for, *inter alia*, failure to appear at §341 meeting unless  
9 debtor paid him additional compensation to attend; an attorney “has an obligation to either handle the  
10 case from beginning to end. . . or refer it to the another attorney.”).

11 Here, when Price signed and filed the *Rights and Responsibilities of Chapter 13 Debtors and*  
12 *Their Attorneys*, he agreed to attend the Meeting of Creditors with the Debtor. (Doc. 10 at page 2-3).  
13 Moreover, when he signed and filed the required Rule 2016(b) *Disclosure of Compensation of*  
14 *Attorney for the Debtor*, Price certified and agreed to “representation of the debtor at the meeting of  
15 creditors.” (Doc. 8, *Rule 2016(b) Statement*, attached as last page).<sup>4</sup> Prior to the Meeting of  
16 Creditors, Price did not tell the Debtor that he would not appear, nor did he obtain her consent for  
17 Zamanski to represent her at the Meeting of Creditors.

18 Particularly given the obvious inadequacies of the Debtor’s plan and the potential equity in her  
19 house, the Meeting of Creditors was a fundamental and significant event in this case. By having  
20 Zamanski specially appear at the Meeting of Creditors, Price shifted the responsibility for a  
21 significant aspect of this case from himself to Zamanski. As such, Zamanski’s involvement as an  
22

---

23 4 Rule 2016(b) requires that the attorney for the debtor disclose to the court and the UST any agreement to share  
24 compensation received from the debtor with any other person who is not a member or associate of the attorney’s law firm.  
25 Commonly termed “fee splitting,” such an arrangement is prohibited under 11 U.S.C. §504(a). *In re ACandS, Inc.*, 297 B.R.  
26 395, 404-405 (Bankr. D. Del. 2003). Additionally, pursuant to California Rule of Professional Conduct 2-200(A), an  
27 attorney must disclose a fee sharing arrangement to the client in writing, and obtain the client’s written consent to share the  
28 fee. *See, In re Wright*, at 151; *State Bar of California Formal Ethics Opinion No. 1994-138*, 1994 WL 721969 at \*5 (Cal.  
St. Bar Comm. Prof. Resp. 1994). Here, however, nothing was presented to the Court regarding the arrangement between  
Price and Zamanski. But Price did state on his Rule 2016(b) statement that he did not agree to share compensation with  
another person.

1 appearance attorney constituted a significant development, requiring Price to disclose it to the Debtor  
2 and obtain her consent for Zamanski's involvement prior to the Meeting of Creditors. Price failed to  
3 do so.

4 **B. Neglecting to Inform the Debtor About and Failure to Appear at the**  
5 **Confirmation Hearing**

6 An attorney has a duty to keep a client informed of important matters related to the attorney's  
7 representation of the client. Cal. Rule of Professional Conduct 3-500; Cal. Bus. & Professions Code  
8 §6068(m). An attorney's failure to communicate with a client and to use his best efforts to represent  
9 that client, constitute breaches of the duty owed by the attorney to the client and are grounds for  
10 discipline. *Hartford v. State Bar of California*, 50 Cal. 3d 1139, 1154 (1990), citing *Van Sloten v.*  
11 *State Bar of California*, 48 Cal. 3d 921, 932 (1989) and *Matthew v. State Bar of California*, 49 Cal.  
12 3d 784 (1989), see also, *Layton v. State Bar of California*, 50 Cal.3d 889, 904 (1990) (failure to  
13 communicate with and inattention to needs of client, standing alone, constitute grounds for  
14 discipline).

15 On March 19, 2004, the Chapter 13 Trustee served notice of the scheduled Confirmation  
16 Hearing by mail to the Debtor and Price. The Debtor testified she first learned that her appearance  
17 was required at the Confirmation Hearing during a telephone conversation she had with the Chapter  
18 13 trustee in late April, 2004. The Debtor further testified that Price never mentioned this  
19 requirement to her and did not send her any written correspondence concerning the Confirmation  
20 Hearing. In an attempt to contradict the debtor, Price submitted his telephone bills, (Exs. E and F  
21 attached to Price Ex. 2, Doc. 22), showing seven calls to the Debtor prior to the Confirmation Hearing  
22 between April 5, 2004 and May 28, 2004. He testified that he called the Debtor on May 28, 2004  
23 "trying to remind her of the Confirmation Hearing" but the Debtor did not return that call or others.<sup>5</sup>

24 While the testimony of Price and the Debtor conflict on this point, the Court finds the  
25 testimony of the Debtor more credible for two reasons. First, if Price did tell the Debtor to attend the

---

26 5 Of these seven telephone calls, four are billed for one minute in duration including the May 28<sup>th</sup> call, and the other three  
27 are for two, three and 15 minutes of time. Price testified that he sometimes would reach the Debtor's roommates and leave  
28 a message for the Debtor, but that he was not sure his messages were getting through to the Debtor.

1 Confirmation Hearing, then it is inconceivable that he would have failed to contact her to find out  
2 what transpired at the hearing before he wrote the June 4<sup>th</sup> Letter. Second, from the evidence  
3 submitted, and given Price's admitted difficulty reaching the Debtor by telephone, it is extremely  
4 difficult to understand why he failed to mention the Confirmation Hearing in his April 27<sup>th</sup> Letter.  
5 Rather, the April 27<sup>th</sup> Letter recounts a meeting at his office on April 23, and focuses in a strident tone  
6 on her case being in jeopardy of dismissal and that a foreclosure sale on her house could possibly go  
7 forward without the Debtor knowing about it if her case were dismissed. (Price Ex. 3, attached). This  
8 Court concludes that Price failed to inform the Debtor that she was required to attend the  
9 Confirmation Hearing.

10 Rule 3-110(A) of the Rules of Professional Conduct "prohibits an attorney from intentionally,  
11 with recklessly disregard, or repeatedly failing to perform legal services competently." *In the Matter*  
12 *of Dixon*, 4 Cal. State Bar Ct. Rptr. 23, 1999 WL 562767 at \*2 (Cal. Bar Ct. March 15, 1999).<sup>6</sup> An  
13 attorney representing a bankruptcy debtor has a core obligation to appear as the debtor's counsel of  
14 record and represent the debtor. *In re Casterona*, 270 B.R. at 530.

15 From the evidence presented, the court finds that Dave Shepard was an important and long-  
16 standing client of Price. In a case titled *Shepard v. Warren*, Alameda County Superior Court case  
17 number WG-04-144996, Shepard obtained an unlawful detainer judgment by default against certain  
18 of his tenants (herein the "Default Judgment") without Price's assistance. Thereafter, on shortened  
19 time, Shepard's former tenants obtained a hearing on a Motion to Set Aside the Default Judgment, set  
20 for June 3, 2004 before the Honorable Steven Brick in Department 31 of the Alameda County  
21 Superior Court. Shepard didn't think he could appear at that hearing without legal counsel, so on the  
22 morning of June 3<sup>rd</sup>, at sometime between 10:00 a.m. and 11:00 a.m., Shepard called Price and asked  
23 him to appear that afternoon at the Superior Court hearing.

24 The Order Shortening Time scheduling that hearing, the Proof of Service for that Order  
25 Shortening Time, the Notice of that hearing, and the Declaration of W. Damian Rickert filed in

---

26 <sup>6</sup> Rule 3-110(A) states: "A member shall not intentionally, recklessly, or repeatedly fail to perform legal services with  
27 competence."

1 support of the Motion to Set Aside the Default Judgment, all state that the hearing on that Motion was  
2 scheduled for June 3<sup>rd</sup> at 2:00 p.m. in Department 31 of the Alameda County Superior Court before  
3 Judge Brick. (See, Superior Court pleadings attached to Doc. 23, *Supp. Resp. of Price to Order to*  
4 *Show Cause*, and also attached to the *Shepard Declaration*, Ex. A to Price Ex. 2, *Response to Order*  
5 *to Show Cause*, Doc. 22). Price knew that the Debtor's Confirmation Hearing was scheduled at  
6 exactly the same hour on that date. At the July 26 Hearing, when questioned about why Price thought  
7 he could attend both hearings in two different locations at the same date and time, he testified that the  
8 noticed 2:00 p.m. time for the hearing in the Superior Court was "incorrect," that it was actually at  
9 1:30 p.m., that he was at the Superior Court at 1:30 p.m. on June 3<sup>rd</sup>, and further that given the 30  
10 minute interval he was "ambitious ... and optimistic .... I could get them both [hearings] done that  
11 day." Price's testimony as to this matter is not credible.

12 The Civil Law and Motion Hearing Schedule posted on the Alameda County Superior Court  
13 website for Department 31, of which this Court takes judicial notice, provides that Judge Brick hears  
14 such matters in even numbered cases, such as *Shepard v. Warren*, case number WG-04-144996,  
15 weekdays at 2:00 p.m. (Court Ex. 2, attached). More significantly, a copy of Judge Brick's Civil  
16 Law and Motion Calendar for June 3, 2004, of which this Court also takes judicial notice, shows that  
17 the "Motion to Vacate/Set Aside Default" in *Shepard v. Warren*, was scheduled for 2:00 p.m. that day  
18 and was number 14 on that calendar. (Court Ex. 3, attached). Finally, it is ludicrous, and not merely  
19 a "wrong judgment call" as Price testified, for Price to suggest that he could attend both hearings on  
20 time, even if the Superior Court hearing did start at 1:30.<sup>7</sup>

21 Accordingly, Price knew possibly as early as the morning of June 3<sup>rd</sup>, or before then, and

---

22  
23 7 Price also testified at the July 26<sup>th</sup> Hearing that the hearing on the Motion to Set Aside the Default Judgment had to be at  
24 1:30 p.m. in the Superior Court because it was an *ex parte* matter and that is when the Superior Court hears such matters.  
25 The facts appear to be otherwise on this point as well. First, although the earlier Order Shortening Time to schedule a hearing  
26 on the Motion to Set Aside the Default Judgment was requested *ex parte*, the Superior Court pleadings, the Civil Law and  
27 Motion Hearing Schedule, and Judge Brick's Civil Law and Motion Calendar show that the actual hearing on the Motion to  
Set Aside the Default Judgment was not *ex parte*. (See, Superior Court pleadings attached to Doc. 23, *Supp. Resp. of Price*  
*to Order to Show Cause*, and also attached to the *Shepard Declaration*, Ex. A to Price Ex. 2, *Response to Order to Show*  
*Cause*, Doc. 22; Court Exs. 2 and 3). Second, even if it was an *ex parte* matter, the Civil Law and Motion Hearing Schedule  
posted on the Alameda County Superior Court website for Department 31 provides that Judge Brick hears *ex parte* matters  
weekdays at 8:45 a.m. (Court Ex. 2).

1 certainly by 1:30 p.m. that afternoon, that he was not going to appear in time for the Confirmation  
2 Hearing. As such, Price had ample time to do something to address this conflict, such as seek a  
3 continuance of either hearing - a telephone call to this Court explaining an emergency might have  
4 accomplished that - or at least inform the Court of the conflict and that he may arrive late for the  
5 Confirmation Hearing. Instead, he chose to do nothing. His reasons for doing nothing - that he left  
6 his cell phone in his car and that his assistant was out of the office - are not credible, and in any event  
7 do not excuse his failure to act responsibly in representing the Debtor. *See, In re La France*, 311 B.R.  
8 1, 24 (Bankr. D. Mass. 2004) (absence of paralegal did not excuse attorney's lapses). This Court  
9 finds that Price intentionally failed to appear at the Confirmation Hearing.

10 **C. Price's Solicitations To Be Hired As The Debtor's Real Estate Broker, and**  
11 **Valuation of the Debtor House Conflicted With His Duties Owed to the Debtor**

12 The relationship of an attorney to a client is of the highest fiduciary character. *State Bar of*  
13 *California Formal Ethics Opinion No. 1996-147*, 1996 WL 664854 at \*2 (Cal. St. Bar Comm. Prof.  
14 Resp. 1996); *McDaniel v. Gile*, 230 Cal. App. 3d 363, 373, 281 Cal. Rptr. 242, 247 (1991). The  
15 obligation of fidelity precludes an attorney from assuming a relationship which would interfere with  
16 the attorney devoting himself entirely to the client's best interests. It does not matter that the  
17 intention and motives of the attorney in assuming such a relationship are honest. *Anderson v. Eaton*,  
18 211 Cal. 113, 116 (1930). An attorney violates his duty to protect his client when the attorney  
19 assumes a relationship "where he may be required to choose between conflicting duties." *Klemm v.*  
20 *Superior Court*, 75 Cal. App. 3d 893, 902 (1977).

21 A conflict of interest is generally defined as a situation that interferes with a lawyer's ability to  
22 fulfill basic duties to a client. Those basic duties include the representation of a client with undivided  
23 loyalty and exercising independent judgment on a client's behalf. These duties require a lawyer to  
24 render legal representation for the benefit of the client and to exercise judgment free of influences that  
25 are extraneous to the lawyer-client relationship. *State Bar of California Formal Ethics Opinion No.*  
26 *2002-158*, 2001 WL 34029612 at \*3 (Cal. St. Bar Comm. Prof. Resp. 2002); *State Bar of California*  
27 *Formal Ethics Opinion No. 1995-141*, 1995 WL 530260 at \*3 (Cal. St. Bar Comm. Prof. Resp. 1995);

1 *Anderson v. Eaton*, 211 Cal. at 116. The burden is upon the attorney to show that his dealings with  
2 his client are fair in all respects. *Clark v. Millsap*, 197 Cal. 765, 785 (1926).

3 A solicitation is any communication regarding professional employment for pecuniary gain.  
4 California Rule of Professional Conduct 1-400(B). Price solicited the Debtor at least five times to be  
5 employed as a real estate broker to list her house for sale: 1) at the August 23, 2003 meeting at Price's  
6 office; 2) at the April 23, 2004 meeting when he encouraged her to list the house at \$340,000 "as is"  
7 for a quick sale; 3) in his April 27<sup>th</sup> Letter to the Debtor, recounting their April 23<sup>rd</sup> meeting and  
8 stating that "[i]f you want to amend the plan ... to borrow money to fix up the house and sell, let me  
9 know. If you just want to list [it] for sale 'as is,' let me know;" 4) in the June 4<sup>th</sup> Letter; and 5) when  
10 Price viewed the Debtor's house and decided that it should list for \$340,000 to \$345,000 for a quick  
11 sale, even though he was told by the Debtor that similar houses in the neighborhood sold for more.<sup>8</sup>

12 Price asserts that State Bar Ethics Opinion 1982-69 permits him ethically to represent the  
13 Debtor as her attorney and also as her real estate broker at the same time, provided he conforms to the  
14 standards of both professions, with full disclosure to the Debtor and with her informed consent to his  
15 dual representation. *State Bar of California Formal Ethics Opinion No. 1982-69*, 1982 WL 31793 at  
16 \*1 (Cal. St. Bar Comm. Prof. Resp. 1982). Price is mistaken.

17 While State Bar Ethics Opinion 1982-69 allows for such dual representation generally, it  
18 cautions that ethically there are "substantial risks" for an attorney actually taking on both roles  
19 simultaneously. (*Id.*) Both the rule and the risks were ignored in this case. From the inception of  
20 their attorney-client relationship, Price consistently solicited the Debtor to employ him as her real  
21 estate broker. When Price contacted the UST toward the end of May 2004, because "he anticipated  
22 he might be hired as a broker," he was told that his dual representation might pose a problem. As

---

23  
24 8 In addition to these persistent and repeated solicitations directly from Price, the Debtor was also confronted with the loan  
25 condition from Bosivert that she retain Price as her real estate broker. Bosivert's declaration that this loan condition stemmed  
26 from his desire to have Price's professional experience "involved to increase the probability of the plan being completed"  
27 and Price's similar testimony at the July 26<sup>th</sup> Hearing, are not credible. Price, as the Debtor's attorney, was already a  
28 professional involved in the matter. Moreover, that Bosivert independent of Price would insist on Price as the Debtor's real  
estate broker, when Price testified and Bosivert declared that neither had met the other before Price contacted Bosivert in  
March of 2004, stretches the bounds of believability.

1 such, Price was on notice prior to the Confirmation Hearing and before he mailed the June 4<sup>th</sup> Letter  
2 that there was a serious problem in serving as the Debtor's real estate broker as long as she was a  
3 debtor in bankruptcy. Dismissal of the Debtor's bankruptcy case would resolve that conflict. At  
4 best, the June 4<sup>th</sup> Letter is a particularly heinous example of Price's attempts to pressure the Debtor  
5 into hiring him as her real estate broker. At worst, it reveals a premeditated plan to engineer the  
6 dismissal of the Debtor's case and thus improve his chances of serving as the Debtor's real estate  
7 broker.

8 Price was duty-bound to devote his undivided loyalty and exercise his independent judgment,  
9 free of influences outside of the attorney-client relationship, on behalf of the Debtor. This Court finds  
10 that while representing the Debtor as her attorney, Price's numerous solicitations to serve as the  
11 Debtor's real estate broker, his cavalier valuation of her house for a quick sale, and his failure to focus  
12 solely on representing the Debtor in her bankruptcy case, conflicted with his duties to act with  
13 undivided loyalty and exercise independent judgment on behalf of the Debtor's best interests. In a  
14 word, his conduct in this case was outrageously improper, unprofessional and unethical under any  
15 reading of California's ethical standards for attorneys.

#### 16 CONCLUSIONS OF LAW

17 1. Price violated California Rule of Professional Conduct 3-500, and California Business &  
18 Professions Code §6068(m), when he failed to disclose to the Debtor that Zamanski would appear  
19 and represent her at the Meeting of Creditors, and when he failed to obtain the Debtor's consent to  
20 Zamanski's representation of her at the Meeting of Creditors.

21 2. Price violated California Rule of Professional Conduct 3-500, and California Business &  
22 Professions Code §6068(m), when he failed to inform the Debtor of the Confirmation  
23 Hearing.

24 3. Price violated California Rule of Professional Conduct 3-110(A), when he intentionally failed  
25 to appear and represent the Debtor at the Meeting of Creditors and the Confirmation Hearing.

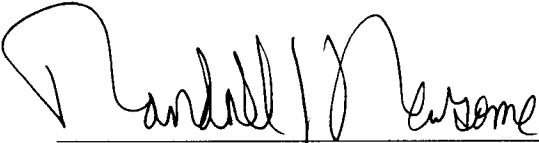
26 4. Price violated the basic duties an attorney owes to a client; to represent the Debtor with  
27 undivided loyalty, to exercise independent judgment on the Debtor's behalf, and to act in the Debtor's

1 best interests.

2 **CONCLUSION**

3 Upon consideration of the foregoing, this Court hereby orders Price, within 20 days of the  
4 filing date of these Findings of Fact, Opinion, and Conclusions of Law, to disgorge to the Debtor the  
5 entire balance of the \$1,500 fee he was paid in this case. In light of the egregious nature of Price's  
6 conduct, the Court further finds it appropriate to suspend Price from the practice of law in the United  
7 States Bankruptcy Court for the Northern District of California for a period of three months, effective  
8 October 22, 2004. This suspension shall not apply to cases and adversary proceedings already filed in  
9 which Price has already made an appearance as the attorney of record. A copy of these Findings of  
10 Fact, Opinion, and Conclusions of Law shall be forwarded to the California State Bar Association for  
11 its review and consideration.

12 **IT IS SO ORDERED.**

13  
14  
15   
16 Randall J. Newsome, Chief Judge  
United States Bankruptcy Court



[Click here and type address]

# facsimile transmittal

To: Judge Newsome

Fax: 1-510-879-3556

From: Patricia Lehtinen

Date: 7/8/2004

Re: Attorney Jim Price

Pages: 5 incl. cover

CC: [Click here and type name]

☒ Urgent

☐ For Review

☐ Please Comment

☐ Please Reply

☐ Please Recycle

Judge Newsome does not have all the facts re Jim Price hearing ordered for today

PLAINTIFF'S  
EXHIBIT  
# A

Court Exhibit

July 8, 2004

Dear Judge Newsome,

My name is Patricia Lehtinen, I appeared in your court on June 3, 2004. You granted me 60 days to close my escrow. At the time of my appearance, you noted my attorney, Jim Price, was absent from the proceedings, and asked where he was. I informed you he had also not appeared at my first hearing, he had sent a substitute without telling me he was going to do this. Also, if I had not called the trustee's office with a question, I would not have known about the June 3rd court date. I could have had my home sold out from under me by the mortgage company if you had set aside my bankruptcy at that time.

The reason I am further addressing this issue is because of the letter I received from Mr. Price dated June 4, 2004, the day after the hearing he did not attend. In the letter he blatantly lied regarding the standing of my bankruptcy, he assumed you had set aside my case because he knew I had not been informed about the date. He requested I come to his office and pay him to file another bankruptcy and list my house with him.

When I originally contacted Mr. Price, it was to use his services as a bankruptcy lawyer. From the first contact with him he has continually tried to secure my home as a listing under his real estate company. I had originally said I needed a loan to bring my home up to par to sell. He told me he could get this loan through one of his contacts. When I received the loan papers from his friend, it was stated they would have no problem lending me the money I required. However, there was only "one stipulation", I had to use Jim Price as my listing broker. Mr. Price had stated he wanted to list my home below market value so as to secure a quick sale. He had suggested I list the house at 340,000.00.

The stipulation his friend had set raised my suspicion as to the ethics of the situation. I listed the house through a family friend at 390,000.00 without painting, etc. The house sold in one and a half weeks at the full asking price.

When Jim Price wrote the letter on June 4, he was unaware I had already sold the house. I had also received a pamphlet from an attorney soliciting my business for the bankruptcy. There was more information as to my rights and options in this free pamphlet than Mr. Price had furnished in all his contacts with me. If I had had this information to start with I would not have sold my home of sixteen years. The stress of the situation coupled with dubious behavior of my lawyer has affected my health to the point I ended up in the hospital last week.

On top of this, Mr. Price sent me a letter recently stating I owe another 40,000.00 on top of the moneys I was aware of. The IRS is requesting I file taxes for the past five years. My papers I need to do this are scattered within 3 storage units I have place my possessions in. I do not feel I owe this money and would appreciate some help with this situation. I do not trust Mr. Price, so I am appealing to you to do what you can to help me.

I really feel Mr. Price is an unethical attorney/realtor with grave conflicts of interest issues. I really would like to speak to an attorney that has my interests at heart. I have not had the money to do this.

Sincerely yours,

Patricia Lehtinen

THE LAW OFFICES OF  
**JIM G. PRICE**  
6571 BRENTWOOD BOULEVARD  
POST OFFICE BOX 1417  
BRENTWOOD, CALIFORNIA 94513  
TELEPHONE: (925) 516-4686  
FACSIMILE: (925) 516-4058

June 29, 2004

Patricia Ann Lehtinen  
1516 Limewood Place  
Pittsburg, CA 94565

Re: Your Chapter 13 Bankruptcy - Case No. 03-46972-RN13

Dear Patty:

Enclosed are three claims which were filed with the trustee. Please review and advise whether you agree with these claims. If you do not, I will then file an objection with the trustee.

Very truly yours,

THE LAW OFFICES OF JIM G. PRICE



JIM G. PRICE

JGP/mb  
Enclosures

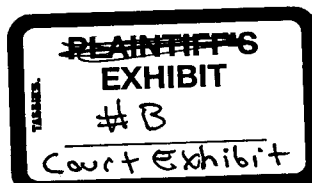
## STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE

The license information shown below represents public information taken from the Department of Real Estate's database at the time of your inquiry. It will not reflect pending changes which are being reviewed for subsequent database updating. Also, the license information provided includes formal administrative actions that have been taken against licensees pursuant to the Business and Professions Code and/or the Administrative Procedure Act. All of the information displayed is public information. Although the business and mailing addresses of real estate licensees are included, this information is not intended for mass mailing purposes.

License information taken from records of the Department of Real Estate  
on 7/9/2004 10:05:43 AM

---

<b>License Type:</b>	BROKER
<b>Name:</b>	Price, Jim Gerhart
<b>Mailing Address:</b>	PO BOX 1417 BRENTWOOD, CA 94513
<b>License ID:</b>	00985910
<b>Expiration Date:</b>	12/01/04
<b><u>License Status:</u></b>	LICENSED
<b><u>Original License Date:</u></b>	04/01/88 (Unofficial -- taken from secondary records)
<b>Former Name(s):</b>	NO FORMER NAMES
<b>Main Office:</b>	6571 BRENTWOOD BL BRENTWOOD, CA 94513
<b>DBA</b>	Esquire Realty ACTIVE
<b>Branches:</b>	NO CURRENT BRANCHES



**Affiliated Licensed  
Corporation(s):**

NO CURRENT AFFILIATED  
CORPORATIONS

**Salespersons:**

01322597 - Berlin, Michelle Georene

**Comment:**

NO DISCIPLINARY ACTION

NO OTHER PUBLIC COMMENTS

>>>> Public information request  
complete <<<<

THE LAW OFFICES OF  
**JIM G. PRICE**  
6571 BRENTWOOD BOULEVARD  
POST OFFICE BOX 1417  
BRENTWOOD, CALIFORNIA 94513  
TELEPHONE: (925) 516-4686  
FACSIMILE: (925) 516-4058

**URGENT**

June 4, 2004

Patricia Ann Lehtinen  
1516 Linnewood Place  
Pittsburg, CA 94565

Re: Your Chapter 13 Bankruptcy - Case No. 03-46972-RN13

Dear Patty:

I am informed that your bankruptcy case was dismissed yesterday. This means your lender is free to proceed with the sale of your house. I called the foreclosure company, and the sale of your house is scheduled next week on June 10, 2004 at 1:30 p.m.

If your house is sold, you cannot get it back and you may lose all or some of your equity in the house. Please set up an appointment with my office to protect your home and equity. We can re-file another bankruptcy case or we can put your house on the market and, given the market, have a contract early next week and negotiate with your lender to postpone the sale to allow escrow to close.

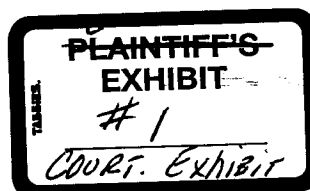
Contact me immediately! I have placed several calls to your home and left messages with your roommates, but have not heard from you.

Very truly yours,

THE LAW OFFICES OF JIM G. PRICE

  
JIM G. PRICE

JGP/mb





# Superior Court of California

County of Alameda



**Alameda  
County  
Home Page**

Search Depts.

**Court Divisions**

**Civil**

General Info

General Civil

Limited Civil

Court Records

Law & Motion

Tentative Rulings

More Info

Small Claims

Family Law

Probate &

Guardianship

Criminal

Traffic

Juvenile

ADA Policies

Your Feedback

**Court Divisions - Civil - Law and Motion** Law and Motion is filed and currently heard at the following locations. Click a linked office location for additional information.

Important Notice for Dept. 31

Post Office, Dept. 31

Allen E. Broussard Justice Center (filings only - matters are heard in Dept. 31)

Berkeley Courthouse, Dept. 203

Fremont Hall of Justice, Dept. 604

## Important Notice for Dept. 31:

**Please note the following scheduling and hearing changes for discovery and civil law and motion matters in Department 31, beginning Monday, September 30, 2002:**

### LAW AND MOTION:

All discovery and civil law and motion matters will be heard at 9:00 a.m. by the Honorable James A. Richman, or at 2:00 p.m. by the Honorable Steven Brick. All cases ending in an odd number will be heard on the 9:00 a.m. calendar, while cases ending in an even number will be heard on the 2:00 p.m. calendar.

### EX PARTE ORDERS:

All requests for ex parte relief, except those to be heard by the designated case management department as described in Local Superior Court Rule 4.4(2), will be heard in Department 31 at 1:30 p.m. by the Honorable James A. Richman, or at 8:45 a.m. by the Honorable Steven Brick. All requests for ex parte relief shall be by appointment only. Appointments shall be made 24 hours or more before the ex parte appearance. A reservation of appointment may be made by calling the Department 31 clerk at (510) 208-3949, or the filing venue of the case as follows:

Hayward Hall of Justice: (510) 670-6634

Gale/Schenone Hall of Justice: (925) 551-6886

Allen E. Broussard Justice Center: (510) 268-7714

## Calendar Office

Post Office, Dept. 31 - Directions

201 13th Street, Room 207

Oakland, CA

The information contained on this page applies to civil law and motion matters filed at the René C. Davidson Alameda County Courthouse and the Allen E. Broussard Justice Center.

## Hours of Operation

Monday through Friday (except holidays), 8:30 a.m. - 4:00 p.m.

Calendar Office, Room 207, is open from 8:30 a.m. - 4:00 p.m.

**PLAINTIFF'S  
EXHIBIT**

★ 2

COURT EXHIBIT





**Superior Court  
State of California**

COUNTY OF ALAMEDA

ARTHUR SIMS  
EXECUTIVE OFFICER  
JURY COMMISSIONER AND  
CLERK OF THE SUPERIOR COURT  
1225 FALLON STREET  
OAKLAND CA 94612

EXECUTIVE OFFICE, ROOM 209  
PHONE: (510) 272-6078  
FAX: (510) 271-5130

**FAX COVER SHEET**

DATE 10/15/04

TO: Ben Mastroianni

FAX # 510-879-3523

PHONE # 510-879-3532

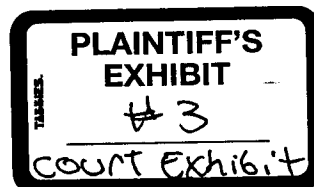
FROM: Melissa Bogum

FAX # 510-272-6021

PHONE # 510-271-5128

NUMBER OF PAGES INCLUDING FAX COVER SHEET 2

COMMENTS/NOTES:



No. Case.No.	Case Title	Reason On Calendar	Filing Location	Notes
10 RG03118378	Brown VS Bonniefield PLT : Katrina E Brown PLF : Patricia Brown PLT : Nzingha Seavron DEF : Michael R Bonniefield DEF : Jacqueline L Bonnifield	Motion to Strike Complaint ATT: Woff, Andrew	RCD	TRuncont
11 RG03124756	PC-Doctor, Inc. VS Pincus PLT : PC-Doctor, Inc. DEF : S. Bruce Pincus	Demurrer to Complaint ATT: Nelson, Tara-Nicholle B ATT: Sherman Jr., Ray W.	RCD	TRcontes
12 RG04141036	Gebremarian VS Word PET : Girma Gebremarian RESP: Richard Word RESP: David Walsh RESP: Jeff Israel RESP: Julia Kurzarock RESP: John Doe Breshears RESP: Kami Jackson RESP: Carolyn Thomas RESP: Darnell Waters RESP: Willie Williams RESP: Ana Martinez RESP: City of Oakland	Motion for Reconsideration Pro-Per	RCD	TRuncont
13 WG03131322	American Express Travel Rel. Svcs. VS Rash PLT : American Express Travel Rel. Svcs. DEF : William Rash	Motion for Summary Judgment ATT: Ray, Thomas M. Pro-Per	WMM	TRuncont
14 WG04144996	Shepard VS Warren PLT : David Shepard DEF : Tommy Warren DEF : Robin Jones CR : David Shepard DR : Tommy Warren DR : Robin Jones	Motion to Vacate/Set Aside Default and Default Jud Pro-Per ATT: Rickert, W Damian ATT: Rickert, W Damian Pro-Per ATT: Rickert, W Damian ATT: Rickert, W Damian	WMM	TRcontes

1516 Limewood Place  
Pittsburg, CA 94565

To: Jim Price Fax: 925-516-4058  
From: Patricia Lehtinen Date: October 28, 2003  
Re: List of bills and creditors Pages: 4 including cover page  
☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

No. I am sorry this has taken me so long to get it finished. It was a much bigger job than I  
Plus, I have not been functioning real well since my Mother's death in August. I  
e harder than I imagined. I hope it is not too late to try and save my home.  
er, after sitting down with pencil and paper and figuring a future budget, I am definitely  
to sell my house if God, and the bankruptcy court, will give me the time to accomplish this.  
ave about 150,000 in equity, if I lose it I might as well hang it up.

PLAINTIFF'S  
EXHIBIT

#1

PRICE Exhibit

THE LAW OFFICES OF  
**JIM G. PRICE**  
6571 BRENTWOOD BOULEVARD  
POST OFFICE BOX 1417  
BRENTWOOD, CALIFORNIA 94513  
TELEPHONE: (925) 516-4686  
FACSIMILE: (925) 516-4058

April 27, 2004

Patricia Ann Lehtinen  
1516 Limewood Place  
Pittsburg, CA 94565

Re: Your Chapter 13 Bankruptcy - Case No. 03-46972-RN13

Dear Patty:

As we discussed in my office on April 23, 2004, you are behind in your post-petition payments to the lender on your house and to the Chapter 13 trustee.

Your Chapter 13 case is in jeopardy of being dismissed. You must bring your payments to the trustee current. If your bankruptcy is dismissed, the lender can proceed with the sale of your house. When you were in my office, you waited with baited breath while I called the lender to determine the status of the foreclosure. You even thought your house had already been sold. The problem we have is that the lender continues to postpone the sale waiting for the bankruptcy to be dismissed, and the minute the case is dismissed the sale can immediately go forward at the next scheduled date. Many homeowners do not keep track of the postponement dates of the sale and their house is sold without any further notice to them.

Please tell me what you want to do. If you want to amend the plan to allow you to borrow money to fix up the house and sell, let me know. If you just want to list for sale "as is", let me know.



Patricia Ann Lehtinen  
April 27, 2004  
Page Two

The present sale date for your house is May 10, 2004.

Very truly yours,

THE LAW OFFICES OF JIM G. PRICE

JIM G. PRICE

JGP/mb


PROOF OF SERVICE

I, the undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Northern District of California at Oakland, hereby certify:

That I, in the performance of my duties as such clerk, served a copy of the foregoing document by depositing it in the regular United States mail at Oakland, California, on the date shown below, in a sealed envelope bearing sufficient postage, addressed as listed below.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: *10-22-04*

  
Dianna Passadore

U.S. Trustee  
(mail box at 1300 Clay St., Oakland, CA)

Martha Bronitsky  
Chapter 13 Trustee  
24301 Southland Drive, Suite 200  
Hayward, CA 94545-1541

Jim G. Price, Esq.  
Law Offices of Jim G. Price  
6571 Brentwood Blvd.  
PO Box 1417  
Brentwood, CA 94513

Patricia A. Lehtinen  
1516 Limewood Pl.  
Pittsburg, CA 94565